DECLARATION OF EDWARD R. EATON

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Todd et al.	)	Group Art Unit: 1714
Serial No.: 10/665,955	)	Examiner: Toomer, Cephia D.
Filed: 09/17/2003	)	Attorney Docket No: P03927
For: Fuel Additive Systems	)	

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

I, Edward R. Eaton, do hereby declare that:

1. I have over twenty-four years of experience in the field of automotive fluids, particularly coolants and fuel additives; and I am considered an expert in such fields by my colleagues. A list of my professional experience, including my areas of study, is included below in Appendix A. A list of my publications is included below in Appendix B.
2. I have thoroughly reviewed the published patent application of Thomas A. Todd, serial no. 10/665,955, titled "Fuel Additive Systems", publication no. 2004/0060229, including its specification and its Claims.
3. Based on my experience and expertise, it is my opinion that all the products referred to by trademarks in such Claims are not indefinite descriptions of the underlying products merely because they are referred to by brand name/trademark/tradename based on the following personally-verified facts:
    a. Additives, such as those listed in the Claims, are registered with the United States Environmental Protection Agency (EPA), and possibly with foreign governmental agencies. The petroleum industry does not change the chemistry of a product, once commercialized and branded, because this would severely impact the industry and governmental certifications to which the product has been certified.
    b. The combination of legal registrations and technical testing qualifications that permit the use of a given product for a given purpose are so extensive as to require that a new product be certified where there is any change in the chemistry of a fuel additive.
    c. Further, no supplier has changed the chemistry of a fuel additive without also changing the brand, as doing so would create serious liability.
    d. As an example, it is the nature of petroleum industry additive suppliers to: (1) protect their product's specific chemical composition; and (2) permanently brand their products with a product name or part number. The chemical compositions of petroleum industry products are typically protected by trade secret. As an example only, one widely used additive from the Lubrizol Corporation is Lubrizol 539. Lubrizol 539 has been

around for decades and is a well known proprietary product that has never changed composition. If, and when, an improvement to a product is developed, the improved product will receive a new designation, such as a new brand, for example, Lubrizol 540.

e. As an illustration of how consistent such additives must be, I once had an additive company contact me when they could not fill an order for a given product. Although the chemistry was compliant with the product we ordered, the batch had darkened in color. This in no way affected the product's performance, but even this trivial variance required that the product receive a unique designation and we had to cancel our order for the lighter color product, and re-order the available, darker color version.

4. In line with my above comments, the scopes of the Claims, in this case, are not uncertain. The "trademarks" and "tradenames", as used in the reviewed application, do properly identify a particular material/product.
5. Thus it is my opinion that the trademarks referred to in the instant application are definite because their use *does* particularly point out and distinctly identify the subject matter of the Claims.
6. Appendix A follows:

January, 2000 – Present Amalgamated Laboratories Phoenix, AZ
Chief Engineer, President, Chief Operating Officer

- Oversee ASTM standard analytical and performance testing of engine coolants.
- Consult with antifreeze and coolant recycling companies regarding technical challenges.
- Advise chemical, engine and vehicle manufacturers on coolant, fuel and fuel additive chemistry.

1994–2000 The Penray Companies, Inc. Wheeling, IL
Director, Technical Services

- Technical representation to engine and vehicle manufacturers.
- Research and development of coolant and fuel technologies.
- Development of competitive product information for marketing and sales personnel.
- Investigation and resolution of problem situations.
- Published one peer-reviewed technical paper relating to diesel fuel technology and eight relating to coolant technology.

1989–1994 Stanadyne Automotive Corp. Windsor, CT
National Aftermarket Sales Manager

- Invented reverse osmosis coolant recycling technology, granted U.S. and foreign patents; published technical paper.
- Formulated and promoted the sales of advanced diesel fuel additives, pioneered aftermarket fuel lubricity technologies.
- Oversaw sales & marketing of all aftermarket products and provided technical support, worldwide.

1987–1989 FPPF Chemical, Inc. Buffalo, NY

Manager, Special Projects

- Assisted in the development and marketing of filtration-based coolant recycling technology.

1976–1987 Intermountain Farmers, Inc.Salt Lake City, UT

Division Manager

- Oversaw automotive division including the operations of 27 stores.
- Served on national brand advisory council for automotive products.

1976–1978 University of Utah Salt Lake City, UT

- Chemical Engineering
- Minor studies in Accounting and Business Management

1974–1976 Bucknell University Lewisburg, PA

- Chemical Engineering
- Pre-medical curriculum

7. Appendix B follows:

"An Investigation of the Effects of Low Sulfur Diesel Fuel on Winter Engine Operation and Recommended Changes in Wintertime Fuel Management Practices", SAE Technical Paper Series #952367, Society of Automotive Engineers, Warrendale, PA, 1995. (co-author: David Daniels, Basic Fuel Services)

"Observations of the Reliability Effects of Operating Heavy Duty Diesel Engines with a Nitrite/Borate/Low Silicate Coolant with no Coolant Change Interval", SAE Technical Paper Series #960642, Society of Automotive Engineers, Warrendale, PA, 1996. (co-author: R. P. Carr, The Penray Companies, Inc.)

"Development of an Ultra-Low Silicate, Phosphate-Free, Extended- Service Interval Coolant, Supplemental Coolant Additive and Maintenance Practice for Use in High Output Off-Highway and Powerplant Internal Combustion Iron Block Engines", SAE Technical Paper Series #961819, Society of Automotive Engineers, Warrendale, PA, 1996. (co-author Samuel Alexander, Detroit Diesel Corp.)

"Engine Reliability Experience of Mixed Vehicle Fleets Operating on Engine Coolant Recycled with Reverse Osmosis Technology", SAE Technical Paper Series #962239, Society of Automotive Engineers, Warrendale, PA 1996

"Recycling Used Engine Coolant Using High-Volume Multiple Technology Equipment" *Engine Coolant Testing, Fourth Volume, ASTM STP 1335,* R. E. Beal, Ed., American Society for Testing and Materials, West Conshohocken, PA, 1997. (co-author M. E. Haddock, Recycled Engine Coolant, Inc.)

"Extended Service of 'Fully Formulated' Heavy Duty Antifreeze in American Cars", *Engine Coolant Testing, Fourth Volume, ASTM STP 1335,* R. E. Beal, Ed., American

Society for Testing and Materials, West Conshohocken, PA, 1997. (co-author M. E. Haddock, Recycled Engine Coolant, Inc.)

"Development of Mobile, On-Site Engine Coolant Recycling Utilizing Reverse Osmosis Technology", *Engine Coolant Testing, Fourth Volume, ASTM STP 1335,* R. E. Beal, Ed., American Society for Testing and Materials, West Conshohocken, PA, 1997. (co-author W. Kughn, Toxguard, Inc.

"Modern Reverse Osmosis Recycling of Used Engine Coolant", SAE Technical Paper Series #971773, Society of Automotive Engineers, Warrendale, PA, 1997

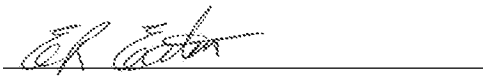
"An Assessment of the Validity of Conductivity as an Estimate of Total Dissolved Solids in Heavy Duty Coolants". *Engine Coolant Testing, Fourth Volume, ASTM STP 1335,* R. E. Beal, Ed., American Society for Testing and Materials, West Conshohocken, PA, 1997. (co-author R. P. Carr, The Penray Companies, Inc.)

"Fleet Test Evaluation of Fully-Formulated Heavy-Duty Coolant Technology Maintained with a Delayed-Release Filter Compared with Coolant Inhibited with an Organic Acid Technology*" Engine Coolant Testing, Fourth Volume, ASTM STP 1335,* R. E. Beal, Ed., American Society for Testing and Materials, West Conshohocken, PA, 1997.

"Standard Test Method for Cavitation and Erosion-Corrosion Characteristics of Aluminum Pumps with Engine Coolants", SAE Technical Paper Series #2001-01-1181, Society of Automotive Engineers, Warrendale, PA, 2001. (co-author: Mary Ranger, Ford Motor Corp.)

"A Chemical Base for Engine Coolant / Antifreeze with Improved Thermal Stability Properties", SAE Technical Paper Series #2001-01-1182, Society of Automotive Engineers, Warrendale, PA, 2001.

8. I further declare under penalty of perjury pursuant to the law of the United States of America that the foregoing (consisting of a total of 4 pages, including this page) is true and correct, and that this declaration was executed by me on this 15th day of September, 2006.



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